

**FILED**

**JAN 03 2020**

Clerk, U S District Court  
District Of Montana  
Billings

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

BIG HORN COUNTY ELECTRIC  
COOPERATIVE, INC.,

Plaintiff,

vs.

ALDEN BIG MAN, *et al*,

Defendants.

CV 17-65-BLG-SPW

ORDER ADOPTING  
MAGISTRATE'S FINDINGS  
AND RECOMMENDATIONS

The United States Magistrate Judge filed Findings and Recommendations on December 13, 2019. (Doc. 97.) The Magistrate recommended the Court deny the Defendants' motion for judgment on the pleadings. (Doc. 97 at 12.)


Pursuant to 28 U.S.C. § 636(b)(1), parties are required to file written objections within 14 days of the filing of the Magistrate's Findings and Recommendation. No objections were filed. When neither party objects, this Court reviews the Magistrate's Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

After reviewing the Findings and Recommendation, this Court does not find that the Magistrate committed clear error. The Plaintiff has sufficiently alleged a violation of federal law and has clearly identified it is seeking prospective relief to satisfy the “straightforward inquiry” from *Ex Parte Young*, 209 U.S. 123 (1908). Tribal sovereign immunity does not bar the Plaintiff’s claim. The Plaintiff’s complaint does not fail to state a claim, either. The Plaintiff has shown the “requisite enforcement connection” to Title 20 of the Crow Law and Order Code for the *Ex Parte Young* exception to tribal sovereign immunity to apply. See *Burlington Northern & Santa Fe Ry. Co. v. Vaughn*, 509 F.3d 1085 (9th Cir. 2007).

**IT IS ORDERED** that the proposed Findings and Recommendations entered by the United States Magistrate Judge (Doc. 97) are **ADOPTED IN FULL**.

**IT IS FURTHER ORDERED** Defendants’ Motion for Judgment on the Pleadings (Doc. 78) is **DENIED**. The Clerk of Court shall notify the parties of this order. This case shall remain referred to Magistrate Judge Timothy J. Cavan for further proceedings.

DATED this 3<sup>rd</sup> day of January, 2020.

  
SUSAN P. WATTERS  
United States District Judge